

08-29-01

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jc951 U.S. PTO

CERTIFICATE OF EXPRESS MAIL  
EXPRESS MAILING NO.: EL 839286252 US  
DATE OF DEPOSIT: August 28, 2001

PATENT  
jc996 U.S. PTO  
09/941296  
08/28/01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Dkt. No.: INRP:067USD1

Prior Application Examiner:  
R. ZEMAN

BOX PATENT APPLICATION  
Commissioner for Patents  
Washington, D.C. 20231

Classification Designation:  
UNKNOWN

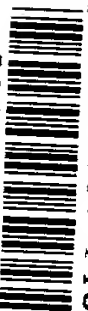
Prior Group Art Unit: 1645

REQUEST FOR FILING DIVISIONAL APPLICATION  
UNDER 37 C.F.R. § 1.53(b)

This is a request for filing a divisional application under Rule 53(b) (37 C.F.R. § 1.53(b)) of co-pending prior application Serial No. 09/441,410 filed November 16, 1999, entitled "FORMULATION OF ADENOVIRUS FOR GENE THERAPY."

- ☒ 1. Enclosed is a copy of the prior application Serial No. 09/441,410 as originally filed, including specification, claims, drawings, and declaration. The undersigned hereby verifies that the attached papers are a true copy of the prior application as originally filed and identified above, that no amendments (if any) referred to in the declaration filed to complete the prior application introduced new matter therein, and further that this statement was made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such

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willful false statement may jeopardize the validity of the application or any patent issuing thereon.

(a) ☒ The inventorship is the same as prior Application Serial No. 09/441,410.

(b) ☐ Deletion of inventor(s). Signed statement attached deleting inventor(s) named in the prior application, see 37 C.F.R. § 1.63(d)(2) and 1.33(b).

(c) ☐ Priority of foreign patent application number , filed in  
is claimed under 35 U.S.C. § 119(a)-(e). The certified copy:  
☐ is enclosed.  
☐ has been filed in the prior Application Serial No.

☒ 2. The Commissioner is requested to grant Applicants a filing date in accordance with Rule 1.53, and supply Applicants with a Notice of Missing Parts in due course, in accordance with the provisions of Rule 1.53(f).

☒ 3. Enclosed is a check in the amount of \$710.00 to cover the filing fee as calculated below and the fee for any new claims added in the Preliminary Amendment referred to in Part No. 9 below.

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CLAIMS AS FILED IN THE PRIOR APPLICATION  
LESS CLAIMS CANCELED BELOW

FOR	NUMBER FILED	NUMBER EXTRA	RATE	FEE
Basic Fee -----				\$710.00
Total Claims	10 - 20 =	X	\$18.00 =	\$0.00
Independent Claims	2 - 3 =	X	\$80.00 =	\$0.00
Multiple Dependent Claim(s) -----				\$-0-.00

FOR	NUMBER FILED	TOTAL FILING FEES: NUMBER EXTRA	RATE	\$710.00 FEE
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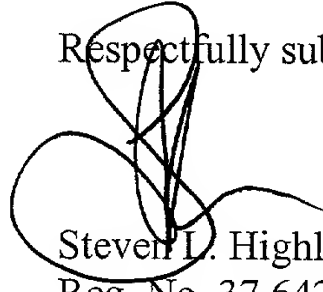
- ☐ 4. Applicant is entitled to Small Entity Status for this application.
- ☐ (a) A small entity statement is enclosed.
- ☐ (b) A small entity statement was filed in the prior nonprovisional application and such status is still proper and desired.
- ☐ (c) Small entity status is no longer claimed.
- ☒ 5. If the check is missing or insufficient, the Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 to 1.21 which may be required for any reason relating to this application, or credit any overpayment to Fulbright & Jaworski L.L.P. Account No.: 50-1212/10107662/SLH.
- ☒ 6. Enclosed is a copy of the current Power of Attorney in the prior application.
- ☒ 7. Address all future communications to:  
  
Steven L. Highlander, Esq.  
FULBRIGHT & JAWORSKI L.L.P.  
600 Congress Avenue, Suite 2400  
Austin, Texas 78701  
(512) 536-3184
- ☒ 8. The prior application is presently assigned to Introgen Therapeutics, Inc.

- ☐ 9. Enclosed is a preliminary amendment. Any additional fees incurred by this amendment are included in the check at No. 3 above and said fee has been calculated after calculation of claims and after amendment of claims by the preliminary amendment.
- ☒ 10. Cancel in this application claims 1-33 and 43-59 of the prior application before calculating the filing fee. (At least one original independent claim must be retained).
- ☒ 11. Amend the specification by deleting the first paragraph on page two and inserting therefor: --This is a divisional of co-pending application Serial No. 09/441,410 filed May 7, 1999, which claimed priority to U.S. Provisional Patent Applications Serial No. 60/108,606, filed November 16, 1998 and Serial No. 60/133,116, filed May 7, 1998. The entire text of the above-referenced disclosure is specifically incorporated by reference.--.
- ☐ 12. Enclosed are formal drawings.
- ☐ 13. An Information Disclosure Statement (IDS) is enclosed.
- ☐ (a) PTO-1449.
- ☐ (b) Copies of IDS citations.
- ☐ 14. Transfer the sequence information, including the computer readable form previously submitted in the parent application, Serial No. \_\_\_\_\_, filed \_\_\_\_\_, for use in this application. **Under 37 C.F.R. § 1.821(e), Applicant states that the paper copy of the sequence listing in this application is identical to the computer readable copy in parent application Serial No. \_\_\_\_\_ filed \_\_\_\_\_. Under 37 C.F.R.**

§ 1.821(f), Applicant also states that the information recorded in computer readable form is identical to the written sequence listing.

- ☐ 15. Other: \_\_\_\_\_.
- ☒ 16. Return Receipt Postcard (should be specifically itemized).

Respectfully submitted,

  
Steven L. Highlander  
Reg. No. 37,642  
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.  
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Austin, Texas 78701  
(512) 536-3184

Date: August 28, 2001

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